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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,825	08/20/2001	Anthony A. Shah-Nazaroff	P6488C	7188
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EXAMINER				
RAMAN, USHA				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/904,825

Applicant(s)

SHAH-NAZAROFF ET AL.

Examiner

USHA RAMAN

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 71-95 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 71-95 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

Response to Arguments

1. Applicant's arguments with respect to claim 71 have been considered but are moot in view of the new ground(s) of rejection.
- 2.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 87-91 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 81-91 recite a "machine readable medium", wherein applicant's disclosure does not impose any limitations in the scope of the machine readable medium (see disclosure, page 21 [0062]). As such the machine readable medium is subject to broadest reasonable interpretation, which includes transitory embodiments of machine readable medium. Accordingly such embodiments of the machine readable medium are not directed to process, machine, article of manufacture, or composition of matter, thereby rendering the claims non-statutory.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 71-75, 77-78, 81-85, 87-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (US Pat. 6,177,931) in view of Leftwich (US Pat. 7,543,321).

With regards to claims 71, 87, and 92, Alexander discloses a method comprising:

Receiving viewer characteristic information from a viewer's entertainment system (col. 28, lines 12-19, col. 29, lines 14-21) at a programming guide server (col. 8, lines 38-43, EPG is accessed from the server hosting the EPG over the internet), the viewer characteristic information identifying a viewer and including viewer preferences (e.g. favorite channels, favorite types of programs, preferred viewing times) and demographic information (e.g. viewer's zip code) about the viewer (col. 28, lines 12-19);

The programming guide server determining a list of broadcasts based on a comparison between viewer characteristic information and broadcast classification data (col. 30, lines 53-58, col. 31, lines 5-31).

Alexander is silent on the step of the step of further generating a second list of broadcast by excluding broadcasts from the list in response to the entertainment system not being configured to receive the excluded broadcasts and providing the second list of broadcasts to the entertainment system.

In an analogous art, Leftwich discloses the step of additionally filtering program data to include only certain broadcasts from a program listing in an EPG system (i.e.

subscription based filtering), wherein only broadcast programs that are available and accessible (i.e. subscribed to) maybe included, while broadcasts that are not accessible or available (i.e. non-subscribed) maybe excluded (col. 3, lines 62-63, col. 4, lines 13-20).

Accordingly it would have been obvious to one of ordinary skill in the art to modify the system of Alexander in view of Leftwich so that the EPG additionally applies a subscription based filtering to a watch list, so that the watch list contains only programs that are available and accessible by the viewer. Such a modified system would present user with a useful listing of programs that are deemed desirable as well as accessible.

With regards to claim 72, the modified system further comprises wherein the viewer characteristic information includes information gathered from the viewer (Alexander: col. 28, lines 12-19).

With regards to claim 73, the modified system further comprises wherein the viewer characteristic information includes viewing habits of the viewer (Alexander: col. 29, lines 14-21).

With regards to claim 74, the modified system further comprises wherein the viewer characteristic information includes channel preferences of the viewer (Alexander: col. 28, line 17).

With regards to claim 75, the modified system further comprises wherein the viewer characteristic information includes visited internet web site types of the viewer (Alexander: col. 29, lines 15-17).

With regards to claims 77 and 78, the modified system is silent on the viewer characteristic information further including ratings provided by the viewer's entertainment system of broadcasts.

Examiner however takes official notice that it was well known in the art at the time of the invention to obtain active/explicit feedback from viewers regarding programs.

Accordingly it would have been obvious to one of ordinary skill in the art to modify the system by allowing a user to give an explicitly feedback regarding broadcasts thereby allowing the viewer profile to reflect accurately viewer's actual preferences on the program.

With regards to claims 81, and 88, the modified system further comprises wherein the program guide server updates viewer characteristic information using viewing habit changes (Alexander: col. 29, lines 14-27).

With regards to claims 82, and 89, the modified system further comprises wherein the programming guide server receives a form of identification of the viewer before providing access to the viewer characteristic information at the entertainment system (Alexander: col. 28, line 24-25).

With regards to claim 83, the modified system further provides a list of viewer's favorite broadcasts to the entertainment system (Alexander: col. 30, lines 55-58).

With regards to claims 84, 90, 93 and 94, the modified system further orders the list (thereby ranking) based on viewer characteristic information before providing the list (Alexander: col. 30, lines 53-58).

With regards to claims 85, 91, and 95, the viewer characteristic information is based in part on feedback provided in response to a request from the viewer to provide feedback (col. 28, lines 12-21, a viewer can decline to provide information or volunteer to provide information from which viewer characteristic is based).

7. Claims 79-80 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (US Pat. 6,177,931) in view of Leftwich (US Pat. 7,543,321) and further in view of Herz et al. (US Pat. 5,758,257).

With regards to claim 79, the modified system is silent on the feedback comprising answer provided by the viewer to a questionnaire about the broadcast.

In an analogous art, Herz discloses a method of soliciting a user for an explicit feedback (col. 22-32).

It would have been obvious to one of ordinary skill in the art to further modify the system in view of Herz by soliciting the user to provide ratings to a broadcast, so that accurate viewer feedback can be gathered.

With regards to claim 80, the system modified in view of Herz does not disclose synopsis on the questionnaire, examiner takes official notice that synopsis can be part of content profile wherein it characterizes the content, and it would have been obvious to allow the user to state their opinion on the synopsis of the content.

8. Claim 76 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (US Pat. 6,177,931) in view of Leftwich (US Pat. 7,543,321) and further in view of Williams et al. (WO 97/47135).

With regards to claim 76, the modified system further comprises wherein the viewer characteristic information includes information about user's entertainment system from which the information was received (col. 28, lines 15-17), however is silent as to including configuration information about the entertainment system.

In a similar field of endeavor, Williams discloses a method of remotely stored preferences that additionally monitors configurable options pertaining to user's entertainment system (page 10, lines 22-32).

It would have been obvious to one of ordinary skill in the art to modify the system in view of Williams by further logging configurable settings pertaining to a user's entertainment system so that additional information about viewer's usage of the entertainment system can be learned.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to USHA RAMAN whose telephone number is (571)272-7380. The examiner can normally be reached on Mon-Fri: 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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